

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HUSSEIN S. HUSSEIN,

Plaintiff,

vs.

MARY DUGAN, an individual,
LEAH WILDS, an individual,

Defendants.

3:05-CV-0381-PMP (RAM)

ORDER

Plaintiff has filed Motion for Entry of Default and Default Judgment (Doc. #63). Plaintiff requests the court to enter a default and default judgment against Defendants Dugan and Wilds on Plaintiff's Amended Complaint because Defendants failed to answer the Amended Complaint on a timely basis.

Plaintiff filed his Amended Complaint on October 28, 2005 (Doc. #9). Thereafter, Defendants filed Motions to Dismiss the Amended Complaint (Doc. Nos. 30 and 20). After briefing the court entered its Orders on the Motions on May 15 and 16, 2006 (Doc. Nos. 32 and 33).

Since the court's decisions on the Motions on Dismiss this case has proceeded in discovery with much discovery being completed and many hearings before the court. In none of these hearings did Plaintiff ever raise the issue of Defendants not filing Answers after rulings on the Motions to Dismiss. As recent as November 6, 2006, the court held a hearing in which it enlarged the time to disclose expert witnesses and set new discovery deadlines in this case (Doc. #61).

1 Plaintiff did not raise the issue at that hearing. The Defendants filed their respective Answers on
2 November 6, 2006 and November 10, 2006 (Doc. Nos. 62 and 63).

3 There has been no prejudice to the Plaintiff in this case by the Defendants' failure to file
4 Answers within the appropriate time following decisions on the Motions to Dismiss. The case
5 proceeded on behalf of all parties as if Answers had been filed. Under the circumstances, it would
6 be unjust to enter default against the Defendants. Plaintiff has proceeded in this case as though
7 it should be litigated on the merits and the court believes that it should be.

8 Plaintiff's Motion for Entry of Default and Default Judgment (Doc. #63) is DENIED.

9 DATED: November 15, 2006.

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12 UNITED STATES MAGISTRATE JUDGE
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